

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 114 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

BOARD OPINION

Versus

RAIPUR MANUFACTURING CO.LTD.

Appearance:

1. COMPANY PETITION No. 114 of 2001
BOARD OPINION for Petitioner No. 1
MR SUNIT S SHAH for Respondent No. 1
GOVERNMENT PLEADER for Respondent No. 2
MR BG JANI for Respondent No. 3
SERVED BY RPAD - (N) for Respondents No. 4,7-8,17
MR RM DESAI for Respondent No. 5
SINGHI & CO for Respondent No. 6
MR UDAY R BHATT for Respondent No. 9
NOTICE UNSERVED for Respondents No. 10,18
MR AI SURTI for Respondents No. 11
MR MANISH R BHATT for Respondents No. 12
MR KB PUJARA for Respondents No. 13
NOTICE SERVED for Respondents No. 14,16,20
MR DS VASAVADA for Respondents No. 15

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 15/10/2001

ORAL JUDGEMENT

1. The Raipur Manufacturing Company Limited (RMCL) filed the Reference before the Board For Industrial & Financial Reconstruction (BIFR) under section 15 (1) of the Sick Industrial Companies (Special Provisions) Act, 1985. The Company was declared 'sick' on 12-2-1996 and Industrial Development Bank of India (IDBI) was appointed as the Operating Agency. The BIFR circulated two draft Rehabilitation Schemes, but, both could not be sanctioned for various reasons. Thereafter, directions were issued to the operating agency to explore the chances for change in management of the Company, however no concrete response were received by operating agency in that direction, the Board prima facie formed the opinion under section 29 (1) of the Act to wind up the Company. It is suggested that, no offers were also received for sale of the Company's assets in response to the advertisement issued for the sale of the same under Section 18 (11) of the Act. Canara Bank and United Bank of India were also granted permission to proceed legally against the Company's guarantors for recovery of their respective dues. Even change in the management of the company also failed to bring desired result. The Textile Labour Association (TLA) had also moved an application before the Labour Court, Ahmedabad, seeking orders for the sale of certain raw materials, semi finished goods, chemicals etc., the value of which was approximately Rs. One crore for the utilisation of the sale proceeds for the payment of dues of the workers. The representatives of the UCO Bank, Vijaya Bank, Central Bank of India, Unit Trust of India, and also representative of the T L A, and the representative of the Company were heard by the Board and after hearing all concerned, the Board came to the conclusion that the Company had failed to come up with any viable acceptable rehabilitation proposition to turn its net worth into positive while meeting all its financial obligations. That, two draft rehabilitation proposals had also failed and the Company was found not in a position to bring into any acceptable viable rehabilitation proposal and the Operating Agency expressed no objection to the winding up of the Company, the workers union representative also expressed no

objection to the winding-up of the Company, so also the Unit Trust of India and all other Banks. The Board in para-18 of its opinion dated 26-4-2001 has clearly expressed that the Company had failed to come out with any acceptable viable rehabilitation proposal and it would never be able to convert its net worth into positive while meeting all its financial obligations, and the Company as a result thereof is not likely to become viable in future and that, it is just, equitable and in public interest that sick industrial Company viz. M/s. Raipur Manufacturing Company Limited should be wound up. Hence the Board confirmed its earlier prima facie order dated 14-2-2000 issued, for winding up of the Company under section 20 (1) of the Act, and hence Raipur Manufacturing Company Limited is opined to be wound up.

3. The above Board Opinion in case No: 94 of 1995 was received by this Court on 9-5-2001. Vide order dated 15-6-2001 this Court directed to issue notice to all concerned parties. Vide order dated 13-8-2001 this Court admitted the petition, fixed it for final hearing on 10-9-2001. The petition was ordered to be advertised in two newspapers, namely Indian Express and Jansatta, both of Ahmedabad edition. The Official Liquidator attached to this Court was appointed as Provisional Official Liquidator and the Provisional Official Liquidator was directed to take possession of movable and immovable properties and assets of the respondent Company. The Provisional Official Liquidator was also directed to draw inventory of movable and immovable properties and assets of respondent Company while taking over possession of the Company. The publication of advertisement in the Official Gazette was dispensed with. The cost for publication of the advertisement was directed to be borne by the United Bank of India.

4. The public advertisement appeared in the newspaper Indian Express and Jansatta pursuant to the order dated 13-8-2001 in the edition of 19-9-2001.

5. The Chief Manager of United Bank of India has filed affidavit of publication, also producing citation, i.e. the cutting of the newspaper in which the said advertisement was published. The deponent Chief Manager of United Bank of India has testified in his affidavit of publication that as per order dated 13-8-2001, public notice have been advertised in two local daily newspapers, namely Indian Express and Jansatta on 19-9-2001.

6. Nobody has appeared and filed any objection to

the public notice which appeared in local daily newspapers dated 19-9-2001.

7. As pointed out above, the Board in its Opinion dated 26-4-2001 has in clear terms opined that the Company has failed to come out with any acceptable viable rehabilitation proposal and it would not be able to convert its net worth into positive while meeting of its financial obligations, and the Company as a result thereof is not likely to become viable in future and it is just, equitable and in public interest that the sick industrial Company, i.e. Raipur Manufacturing Company Limited should be wound up. The Board in para-18 of its Opinion dated 26-4-2001 confirmed its earlier prima facie order dated 14-2-2000, for winding up of the Company under section 28 (1) of the Act, and opined that Raipur Manufacturing Company Limited should be wound up and all proceedings in the case should be forwarded to the concerned High Court for necessary action.

8. That, after the Opinion by the Board dated 26-4-2001, and pursuant to the order dated 13-8-2001 passed by this Court, Provisional Official Liquidator started taking inventory of the movable and immovable properties of the Company, and took the possession of movable and immovable properties of the Company.

9. As pointed out above, nobody has come forward pursuant to the public notice, which appeared in the above said two local newspapers on 19-9-2001 as suggested by the affidavit of publication of the advertisement. No objection to the said advertisement has been filed by anybody. In view of the Board Opinion as above, and non objecting to the same, there is no alternative, but to wind up Raipur Manufacturing Company Limited and appoint Provisional Official Liquidator as the Official Liquidator with all powers under the provisions of the Companies Act, 1956.

10. In view of the above, the Opinion in Case No. 94 of 1995 by the Board for Industrial & Financial Reconstruction is accepted, and accordingly M/s. Raipur Manufacturing Company Limited, Ahmedabad, is ordered to be wound up with Provisional Official Liquidator appointed as Official Liquidator with all powers under the provisions of the Companies Act, 1956.

11. This Company Petition is disposed of accordingly.

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